S.B. CIVIL MISC. APPEAL NO.1337/2006
(Shanti Lal & ors. Vs. Makna Ram & ors.**.)**

DATED : 18.09.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.S.K. Sankhla for the appellants.

*****

By way of this appeal the claimant-appellants seek enhancement over the amount of Rs.2,06,672/- awarded by the Motor Accidents Claims Tribunal, Pali in its award dated 08.09.2003 in Claim Case No.497/2001 as compensation on account of accidental death of their son Shri Ganpat Das, 24 years in age.

Near new roadways bus stand in the city of Pali, on 25.08.2000 at about 11.15 p.m. the deceased Ganpat Das while returning home with his trolley (thela) was hit from behind by a jeep bearing registration number RJ 19 T 0964 and he succumbed to the injuries sustained in the accident while undergoing treatment at Bangar Hospital, Pali.

The present appellants, parents of the deceased, while joining their other son Chetan Das, claimed compensation on account of accidental death of Ganpat Das stating his earnings at Rs. 3,000/- per month as a trolley-vendor of food items like Idli & Dosa.

The learned Judge of the Tribunal found the rash and negligent driving of the aforesaid jeep responsible for the accident and resultant death of the victim; and held the respondents liable for compensation. While quantifying compensation, the learned Judge observed that no evidence was adduced for the income of the deceased but looking to the overall circumstances considered it appropriate to estimate his earnings at Rs. 2,000/- per month. The learned Judge also noticed that the father of the deceased was also earning Rs. 100/- per day as a trolley-vendor of sundry snacks; and that the deceased was an unmarried person. In the overall circumstances, the learned Judge considered it proper to take loss of dependency for the parents of the deceased only at 50% of the estimated earnings of the deceased at Rs. 1,000/- per month leading to a multiplicand of Rs. 12,000/- per annum and applied a multiplier of 15 to assess pecuniary loss at Rs. 1,80,000/-. The learned Judge further allowed Rs. 672/- spent on treatment of the deceased, Rs. 1,000/- towards property loss, Rs. 5,000/- towards funeral expenses and Rs. 20,000/- towards non-pecuniary loss. In this manner the Tribunal has made the award in the sum of Rs.2,06,672/- in favour of the claimant-appellants and has allowed interest at the rate of 9% per annum from the date of filing of the claim application.

Learned counsel for the appellants has contended that the Tribunal has erred in its assessment of pecuniary loss where the income of the deceased has been taken only at Rs. 2,000/- per month and a lower side multiplier only of 15 has been applied and, therefore, the amount awarded by the Tribunal deserves suitable enhancement.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that the award in question cannot be said to be too low or grossly inadequate so as to warrant interference in appeal.

When no definite proof of income has been adduced, the Tribunal cannot be said to have erred in taking a reasonable estimate of earnings of the deceased at Rs. 2,000/- per month. The deceased being an unmarried person and the claimants being not totally dependent upon him, taking of 50% of the estimated earning for the purpose of loss of contribution for the parents seems very reasonable in the fact situation of the present case. In view of the age of the claimants around 45 years, application of multiplier of 15 is also proper and not on the lower side. The pecuniary loss assessed by the Tribunal in the present case at Rs. 1,80,000/- (1,000/- x 12 x15) does not fall on lower side. The Tribunal has further awarded reasonably higher amount of Rs. 20,000/- towards non-pecuniary loss. The Tribunal has also allowed

reasonably higher rate of interest at 9% per annum from the date of filing of claim application. The ultimate award made by the Tribunal cannot be said to be too low or inadequate to warrant interference by the appellate court.

The appeal fails and is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

MK